

AMENDED IN SENATE JULY 3, 2003

AMENDED IN ASSEMBLY APRIL 21, 2003

AMENDED IN ASSEMBLY MARCH 24, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 845

Introduced by Assembly Member Vargas

February 20, 2003

An act to amend Sections ~~5102 and 5311~~ 5102, 5111, 5133, 5311, and 5316 of, to add Sections 5142, 5143, and 5317.5 to, and to add Article 5.4 (commencing with ~~Section 5243~~) and Article 8.5 (commencing with ~~Section 5323~~) to Section 5243) to Chapter 7 of Division 2 of, the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 845, as amended, Vargas. Household goods carriers.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including transportation companies. Household goods carriers are subject to the jurisdiction and control of the commission under the Household Goods Carriers Act. *The act prohibits a household goods carrier from engaging, or attempting to engage, in the business of the transportation of used household goods and personal effects, by motor vehicle over any public highway in the state, without a permit issued by the commission. The act declares that it is not to be construed as a regulation of interstate or foreign commerce, except as permitted under the United States Constitution and the acts of Congress.*

~~This bill would prohibit a household goods carrier from exercising a self-help remedy or failing to timely deliver property in its possession, unless the debtor and consignor, as defined were provided with a written qualifying contract. The bill would require the commission to adopt rules and regulations for written qualifying contracts that, at a minimum, provide an estimated cost of service, delivery destination, delivery date, and a description of the services to be rendered, to be delivered within a reasonable time. The bill would require that any change order to the written qualifying contract be in writing, specify any change to the terms of the contract, and be executed by the debtor. The bill would prohibit a household goods carrier from failing to timely deliver household goods, personal effects, used office, store, or institution furniture and fixtures in their possession to the consignee, at the destination and on the date specified in the qualifying contract, upon request by the consignee, and tender of payment for the estimated cost of service and any valid change orders for service. The bill would provide that as an alternative to bringing a complaint before the commission, the consumer injured by a violation of these requirements may sue and receive treble damages or \$1,000, whichever is greater, interest on actual damages, injunctive relief, reasonable attorneys' fees, and costs of suit prohibit a household goods carrier from engaging, or attempting to engage, in the business of the transportation of used household goods and personal effects, by motor vehicle over any public highway in the state, including advertising, soliciting, offering, or entering into an agreement, without a permit issued by the commission authorizing transportation entirely within the state, or a valid operating authority issued by the Federal Motor Carrier Safety Administration, for interstate transportation. A household goods carrier without a permit issued by the commission or a valid operating authority issued by the Federal Motor Carrier Safety Administration, would be prohibited from enforcing any security interest or bringing an action to recover any money, property, or other relief from any consignor, consignee, or owner of household goods or personal effects for services rendered, and any person utilizing the services of an unpermitted and unauthorized household goods carrier would be authorized to bring an action to recover all compensation paid to the household goods carrier. The operation of a motor vehicle without a permit or authorization would constitute a public nuisance under the bill. The bill would instead declare that the act is not to be construed as a regulation of interstate~~



or foreign commerce, except as not prohibited under the United States Constitution and the acts of Congress.

This bill would, with certain exceptions, permit a household goods carrier a lien on used household goods and personal effects to secure payment for transportation and additional services ordered by the consignor, as defined. The existence and amount of the lien would be conditioned upon providing the consignor with a specified notice that clearly and conspicuously specifies the dollar amount for transportation and additional services, which amount is required to be estimated in good faith based upon the specific circumstance and to be just and reasonable, and would prohibit the dollar amount from being preprinted on the notice. Upon tender to the household goods carrier of the amount specified in the notice, the lien would be extinguished and the household goods carrier would be required to release all household goods and personal effects to the consignee, as defined. Knowing failure to release the goods would be a public offense. The bill would authorize any person injured by a violation of these requirements to bring an action for recovery of the greater of \$1,000 or actual damages, injunctive or other equitable relief, reasonable attorney's fees and costs, and exemplary damages of not less than three times the amount of actual damages for a willful violation.

This bill would prohibit a household goods carrier from transporting household goods under a subhauling agreement unless the agreement is with another licensed household goods carrier and the customer or shipper is provided with reasonable notice and consents in writing to the subhauling arrangement. The bill would require the commission to make any rules and regulations necessary to enforce these requirements. The bill also would make a technical, nonsubstantive change. ~~Because~~

(2) Under the Household Goods Carriers Act, a household goods carrier and every officer, director, agent, or employee who violates or fails to comply with the act or an order, decision, rule, regulation, direction, demand, or requirement of the commission, is guilty of a misdemeanor, punishable by fine of not more than \$1,000 or by imprisonment in the county jail for not more than 3 months, or both. The act provides that the penalties accruing under the act are cumulative.

Because a violation of the Household Goods Carriers Act or an order of the commission is a crime under existing law, the bill would impose a state-mandated local program by expanding a crime. The bill would make a willful violation punishable by fine of not more than \$10,000 or



imprisonment in the county jail for not more than one year, or both. The bill would make a violation of the above described provision requiring a household goods carrier to have a permit or authorization, a misdemeanor, punishable by fine of not more than \$10,000 or imprisonment in the county jail for not more than one year, or both. The bill would provide that the remedies and penalties accruing under the act are cumulative.

~~(2)~~

(3) The Public Utilities Act requires the commission to see that statutes affecting public utilities are enforced and obeyed, and that violations are promptly prosecuted and penalties to the state are recovered and collected. The act requires that upon request by the commission, the Attorney General or a district attorney aid the commission in any investigation, hearing, or trial under the act and authorizes the Attorney General or a district attorney to institute and prosecute actions for the enforcement of constitutional and statutory provisions pertaining to public utilities.

This bill would require the commission to ensure that the Household Goods Carriers Act is enforced and obeyed, and that violations are promptly prosecuted and penalties to the state are recovered and collected. The bill would require that upon request by the commission, the Attorney General or a district attorney aid the commission in any investigation, hearing, or trial under the the Household Goods Carriers Act and authorizes the Attorney General, a district attorney, or city attorney to institute and prosecute actions for the enforcement of the Household Goods Carriers Act, ~~except to enforce a penalty.~~

~~(3)~~

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5102 of the Public Utilities Code is
2 amended to read:



5102. The use of the public highways for the transportation of used household goods and personal effects for compensation is a business affected with a public interest. It is the purpose of this chapter to preserve for the public the full benefit and use of public highways consistent with the needs of commerce without unnecessary congestion or wear and tear upon those highways; to secure to the people just, reasonable, and nondiscriminatory rates for transportation by carriers operating upon the highways; ~~and to~~ secure full and unrestricted flow of traffic by motor carriers over the highways that will adequately meet reasonable public demands by providing for the regulation of rates of all carriers so that adequate and dependable service by all necessary carriers shall be maintained and the full use of the highways preserved to the public.

SEC. 2. ~~Section 5142 is added to the Public Utilities Code, to read:~~

~~5142. (a) No household goods carrier, owner, officer, agent, or employee of a household goods carrier, may exercise a self-help remedy or fail to timely deliver household goods, personal effects, used office, store, or institution furniture and fixtures in their possession, unless the debtor and consignor were provided a written qualifying contract.~~

~~(b) The commission shall adopt rules and regulations for written qualifying contracts that shall, at a minimum, provide an estimated cost of service, delivery destination, delivery date, and a description of the services to be rendered, to be delivered within a reasonable time. Every qualifying contract shall be executed in writing by the debtor prior to services being performed under the qualifying contract. Any change order to the written qualifying contract shall be in writing, shall specify any change to the terms of the contract, and shall be executed in writing by the debtor. Whenever circumstances develop after the commencement of service that render the delivery date inaccurate, the household goods carrier shall promptly notify the debtor, consignor, and consignee of the change in circumstances and of the new delivery date.~~

~~(c) No household goods carrier, owner, officer, agent, or employee of a household goods carrier, shall fail to timely deliver household goods, personal effects, used office, store, or institution furniture and fixtures in their possession to the consignee, at the~~

~~destination and on the date specified in the qualifying contract,
upon request of the consignee and tender of payment for the
estimated cost of service and any valid change orders for service.~~

~~(d) For purposes of this section:~~

~~(1) "Consignee" means the person named in the bill of lading
to whom or to whose order the bill promises delivery.~~

~~(2) "Consignor" means the person named in the bill of lading
as the person from whom the goods have been received for
shipment.~~

~~(3) "Debtor" means the person obligated to pay a freight
charge of a household goods carrier.~~

~~(4) "Delivery date" means the reasonable estimate as to when
the property will be ready for delivery to the shipper at the
destination specified in the contract.~~

~~(5) "Delivery destination" means the actual physical address
where the property is to be delivered.~~

~~(6) "Estimated cost of service" means a written document
prepared by the household goods carrier showing the total cost of
services to be performed by the household goods carrier. A "not
to exceed price" is not an "estimated cost of service."~~

~~(7) "Executed" means to sign or otherwise indicate acceptance
of the contract, and includes acceptance communicated by
electronic mail or facsimile transmission.~~

~~(8) "Reasonable time" means a commercially reasonable time
prior to taking delivery of property from the consignor, that in the
determination of the commission allows the debtor and consignor
to make a reasoned and informed choice of whether to accept the
contract.~~

~~(9) "Request" includes oral, telephonic, electronic, or written
requests to a household goods carrier, owner, officer, agent, or
employee to deliver property.~~

~~SEC. 3.—public; and to promote fair dealing and ethical
conduct in the rendition of services involving or incident to the
transportation of household goods and personal effects.~~

~~SEC. 2. Section 5111 of the Public Utilities Code is amended
to read:~~

~~5111. This chapter shall not be construed as a regulation of
commerce with foreign nations or among the several states, except
insofar as such regulation is permitted not prohibited under the~~

1 provisions of the Constitution and the acts of the Congress of the
2 United States.

3 *SEC. 3. Section 5133 of the Public Utilities Code is amended*
4 *to read:*

5 5133. (a) No household goods carrier shall engage, or
6 attempt to engage, in the business of the transportation of used
7 household goods and personal effects, by motor vehicle over any
8 public highway in this state, *including advertising, soliciting,*
9 *offering, or entering into an agreement regarding the*
10 *transportation of used household goods and personal effects,*
11 *unless there each of the following is satisfied:*

12 (1) *There is in force a permit issued by the commission*
13 *authorizing those operations for transportation of household*
14 *goods and personal effects entirely within this state.*

15 (2) *There is in force a valid operating authority issued by the*
16 *Federal Motor Carrier Safety Administration for transportation of*
17 *household goods and personal effects from this state to another*
18 *state or from another to this state.*

19 (b) *A household goods carrier that engages, or attempts to*
20 *engage, in the business of the transportation of used household*
21 *goods and personal effects in violation of subdivision (a) may not*
22 *enforce any security interest or bring or maintain any action in law*
23 *or equity to recover any money or property or obtain any other*
24 *relief from any consignor, consignee, or owner of household goods*
25 *or personal effects in connection with an agreement to transport,*
26 *or the transportation of, household goods and personal effects or*
27 *any related services. A person who utilizes the services of a*
28 *household goods carrier operating in violation of subdivision (a)*
29 *may bring an action in any court of competent jurisdiction in this*
30 *state to recover all compensation paid to that household goods*
31 *carrier.*

32 (c) *The operation of a motor vehicle used in the business of*
33 *transporting household goods and personal effects by a household*
34 *goods carrier that does not possess a valid permit or operating*
35 *authority, as required by subdivision (a), constitutes a public*
36 *nuisance. Any peace officer, as defined in Chapter 4.5*
37 *(commencing with Section 830) of Title 3 of Part 2 of the Penal*
38 *Code, may remove any motor vehicle located within the territorial*
39 *limits in which the officer may act, when the vehicle is found upon*
40 *a highway and is being used in a manner constituting a public*

1 nuisance. At the request of the commission, the Attorney General,
2 district attorney, city attorney, or county counsel, the law
3 enforcement agency may impound the vehicle for a period not to
4 exceed 72 hours to enable the requesting agency to abate the
5 public nuisance, to obtain an order from the superior court of the
6 county in which the vehicle has been impounded to prevent the use
7 of the motor vehicle in violation of law, and to obtain any other
8 remedy available under law as permitted by Section 5316.

9 SEC. 4. Section 5142 is added to the Public Utilities Code, to
10 read:

11 5142. (a) Except as provided in Section 5133, a household
12 goods carrier in compliance with this chapter, has a lien on used
13 household goods and personal effects to secure payment for
14 transportation and additional services ordered by the consignor.
15 No lien attaches to food, medicine, or medical devices, items used
16 to treat or assist an individual with a disability, or items used for
17 the care of a minor child.

18 (b) (1) The amount secured by the lien is the maximum total
19 dollar amount for the transportation of the household goods and
20 personal effects and any additional services (including any bona
21 fide change order permitted under the commission's tariffs), that
22 shall be set forth clearly and conspicuously in writing adjacent to
23 the space reserved for the signature of the consignor, and agreed
24 to by the consignor before any goods or personal effects are moved
25 from their location or any additional services are performed.

26 (2) The dollar amount for the transportation of household
27 goods and personal effects and additional services, may not be
28 preprinted on any form, shall be just and reasonable, and shall be
29 established in good faith by the household goods carrier based on
30 the specific circumstances of the services to be performed.

31 (c) Upon tender to the household goods carrier of the amount
32 specified in subdivision (b), the lien is extinguished, and the
33 household goods carrier shall release all household goods and
34 personal effects to the consignee.

35 (d) Any person having possession or control of household
36 goods or personal effects, who knows, or through the exercise of
37 reasonable care should know, that the household goods carrier has
38 been tendered the amount specified in subdivision (b), and who
39 refuses to release the household goods and personal effects upon
40 the request of a peace officer, or upon the request of the consignor

1 or consignee made in the presence of a peace officer, has
2 committed a public offense in the officer's presence under Section
3 836 of the Penal Code.

4 (e) Nothing in this section affects any rights of a household
5 goods carrier to claim additional amounts, on an unsecured basis,
6 or of a consignor or consignee to make or contest any claim, and
7 tender of payment of the amount specified in subdivision (b) is not
8 a waiver of claims by the consignor or consignee.

9 (f) Any person injured by a violation of this section by a
10 household goods carrier, may bring an action for the recovery of
11 the greater of one thousand dollars (\$1,000) or actual damages,
12 injunctive or other equitable relief, reasonable attorney's fees and
13 costs, and exemplary damages of not less than three times the
14 amount of actual damages for a willful violation.

15 (g) Any waiver of this section shall be void and unenforceable.

16 (h) For purposes of this section, the following terms have the
17 following meaning:

18 (1) "Consignor" means the person named in the bill of lading
19 as the person from whom the household goods and personal effects
20 have been received for shipment and that person's agent.

21 (2) "Consignee" means the person named in the bill of lading
22 to whom or to whose order the household goods carrier is required
23 to make delivery as provided in the bill of lading and that person's
24 agent.

25 SEC. 5. Section 5143 is added to the Public Utilities Code, to
26 read:

27 5143. (a) For purposes of this section, the following terms
28 have the following meaning:

29 (1) "Consignor" means the person named in the bill of lading
30 as the person from whom the household goods and personal effects
31 have been received for shipment and that person's agent.

32 (2) "Consignee" means the person named in the bill of lading
33 to whom or to whose order the household goods carrier is required
34 to make delivery as provided in the bill of lading and that person's
35 agent.

36 (b) Any household goods carrier engaged in the business of
37 transportation of used household goods and personal effects by
38 motor vehicle over any public highway in this state shall provide
39 each consignor with a completed copy of the notice set forth in this
40 section. The notice shall be printed in at least 12-point type, except

1 the title and first two paragraphs which shall be printed in
2 boldface type, and provided to each consignor at least three days
3 prior to the date scheduled for the transportation of household
4 goods or personal effects. If the consignor requests services on a
5 date that is less than three days before the scheduled date for
6 transportation of the household goods or personal effects, the
7 carrier shall provide the notice as soon as practicable, but in no
8 event may the carrier commence any services until the consignor
9 has signed and received a signed copy of the notice. The carrier
10 shall obtain sufficient information from the consignor to fill out the
11 form and shall include the correct maximum amount and a
12 sufficient description of services that will be performed. The
13 carrier shall retain a copy of the notice, signed by the cosignor, for
14 at least three years from the date the notice was signed by the
15 cosignor.

16 (c) Any waiver of the requirements of this section is void and
17 unenforceable.

18 (d) The “Not To Exceed” amount set forth in the notice and the
19 agreement between the household goods carrier and the
20 consignor, shall be the maximum total dollar amount for which the
21 consignor may be liable for the transportation of household goods
22 and personal effects and any additional services ordered by the
23 consignor (including any bona fide change order permitted under
24 the commission’s rules and tariffs) and agreed to by the consignor
25 before any goods or personal effects are moved from their location
26 or any other services are performed.

27 (e) The notice provided the consignor shall be in the following
28 form:

29
30 “IMPORTANT NOTICE ABOUT YOUR MOVE

31
32 ‘IT IS VERY IMPORTANT THAT YOU ONLY AGREE TO A “NOT
33 TO EXCEED” AMOUNT THAT YOU THINK IS A PROPER AND
34 REASONABLE FEE FOR THE SERVICES YOU ARE
35 REQUESTING. THE “NOT TO EXCEED” AMOUNT THIS
36 MOVER IS REQUESTING IS \$_____ to
37 perform the following services:

38 _____

39 _____

40



1 _____
2 _____
3 _____
4 _____
5 _____
6 _____
7 _____

8 {
9 “IF YOU DO NOT AGREE TO THE “NOT TO EXCEED”
10 AMOUNT LISTED OR THE DESCRIPTION OF SERVICES,
11 YOU SHOULD NOT SIGN IT AND MAY REFUSE THE
12 MOVER’S SERVICE AT NO CHARGE TO YOU.

13
14 “If you request additional or different services at the time of the
15 move, you may be asked to complete a Change Order which will
16 set forth your agreement to pay for additional fees for those newly
17 requested services. If you agree to the additional charges on that
18 Change Order, those charges may be added to the “NOT TO
19 EXCEED” amount set forth above. If you do not agree to the
20 amounts listed in the Change Order, you have the right to not sign
21 it and you have the right to refuse the mover’s services.

22
23 “A mover cannot refuse to release your goods once you have paid
24 the “NOT TO EXCEED” amount for the transportation of your
25 goods and personal effects and any additional services that you
26 have agreed to in writing. The “NOT TO EXCEED” amount must
27 be reasonable.

28
29 “A mover cannot, under any circumstances, withhold food,
30 medicine, medical devices, items to treat or assist a disabled
31 person, or items used for care of a minor child. An unlicensed
32 mover has no right to withhold your goods for any reason
33 including claims that you have not adequately paid for services
34 rendered.

35
36 “For additional information or to confirm whether a mover is
37 licensed by the California Public Utilities Commission, please call
38 the Public Utilities Commission toll free at:{C}
39



insert toll-free number

“I have completed this form and provided the consumer (shipper) with a copy of this notice.

“Signed _____

Dated _____

“I have been provided with a copy of this form.

Signed _____ *Dated* _____
”

SEC. 6. Article 5.4 (commencing with Section 5243) is added to Chapter 7 of Division 2 of the Public Utilities Code, to read:

Article 5.4. Subhauling Agreements

5243. No household goods carrier may transport household goods under a subhauling agreement unless each of the following occurs:

~~(a) The customer or shipper is provided with reasonable notice of the subhauling agreement and consents in writing to the subhauling arrangement. Reasonable notice shall be given to the customer or shipper within 24 hours after the household goods carrier enters into the subhauling agreement. The written consent of the customer or shipper shall be obtained prior to the beginning of work. The customer may withhold consent to the subhauling arrangement without penalty or charge.~~

~~(b) The subhauler complies with the requirements of this chapter.~~

~~(c)~~

(a) The subhauler is licensed by the commission to transport household goods and complies with the requirements of this chapter.

(b) The household goods carrier and subhauler are jointly and severally liable for any loss or damage caused by the subhauler.

1 5244. The commission shall adopt any rules and regulations
2 it determines to be necessary to enforce the requirements of this
3 article.

4 ~~SEC. 4.—~~

5 *SEC. 7.* Section 5311 of the Public Utilities Code is amended
6 to read:

7 5311. (a) Every household goods carrier and every officer,
8 director, agent, or employee of any household goods carrier who
9 violates or who fails to comply with, or who procures, aids, or
10 abets any violation by any household goods carrier of any
11 provision of this chapter, or who fails to obey, observe, or comply
12 with any order, decision, rule, regulation, direction, demand, or
13 requirement of the commission, or of any operating permit issued
14 to any household goods carrier, or who procures, aids, or abets any
15 household goods carrier in its failure to obey, observe, or comply
16 with any such order, decision, rule, regulation, direction, demand,
17 requirement, or operating permit, is guilty of a misdemeanor, and
18 is punishable by fine of not more than one thousand dollars
19 (\$1,000) or by imprisonment in the county jail for not more than
20 three months, or both. *If a violation is willful, each willful violation*
21 *is punishable by fine of not more than ten thousand dollars*
22 *(\$10,000) or by imprisonment in the county jail for not more than*
23 *one year, or both.*

24 (b) *Any person who violates subdivision (a) of Section 5133,*
25 *is guilty of a misdemeanor, and is punishable by fine of not more*
26 *than ten thousand dollars (\$10,000), by imprisonment in the*
27 *county jail for not more than one year, or both, for each violation.*

28 ~~(b) It is a violation of this section for any household goods~~
29 ~~carrier, owner, officer, agent, or employee of a household goods~~
30 ~~carrier, to engage in self-help or fail to timely deliver household~~
31 ~~goods, personal effects, used office, store, or institution furniture~~
32 ~~and fixtures in their possession, without having provided the~~
33 ~~debtor and consignor with a written qualifying contract pursuant~~
34 ~~to subdivision (a) of Section 5142. Refusing or failing to timely~~
35 ~~deliver household goods, personal effects, used office, store, or~~
36 ~~institution furniture and fixtures in their possession, pursuant to~~
37 ~~this subdivision, upon the request of a peace officer or upon the~~
38 ~~request of the debtor, consignor, or consignee made in the presence~~
39 ~~of a peace officer, is a public offense committed in the officer's~~
40 ~~presence under Section 836 of the Penal Code.~~

~~(c) It is a violation of this section for any household goods carrier, owner, officer, agent, or employee of a household goods carrier, to fail to timely deliver household goods, personal effects, used office, store, or institution furniture and fixtures in their possession to the consignee, at the destination and on the date specified in the qualifying contract, upon request of the consignee and tender of payment for the estimated cost of service and any valid change orders for service, pursuant to subdivision (c) of Section 5142. Refusing or failing to timely deliver household goods, personal effects, used office, store, or institution furniture and fixtures in their possession, pursuant to this subdivision, upon the request of a peace officer or upon the request of the debtor, consignor, or consignee made in the presence of a peace officer, is a public offense committed in the officer's presence under Section 836 of the Penal Code.~~

~~SEC. 5.—~~

SEC. 8. Section 5316 of the Public Utilities Code is amended to read:

5316. All remedies and penalties accruing under this chapter are cumulative to each other and to the remedies and penalties available under any other law, and a suit for the recovery of one penalty does not bar or affect the recovery of any other penalty or forfeiture or bar any criminal prosecution against any person or corporation, or any officer, director, agent or employee thereof, or any other corporation or person, or bar the exercise by the commission of its power to punish for contempt.

SEC. 9. Section 5317.5 is added to the Public Utilities Code, to read:

5317.5. The commission shall ensure that this chapter is enforced and obeyed, and that violations thereof are promptly prosecuted and penalties due the state therefor recovered and collected, and to this end it may sue in the name of the people of the State of California. Upon the request of the commission, the Attorney General or the district attorney of the proper county or city and county shall aid in any investigation, hearing, or trial had under this chapter. The Attorney General, a district attorney of the proper county or city and county, or a city attorney may institute and prosecute actions or proceedings for the enforcement of this chapter and for the punishment of all violations thereof, except for the collection of a penalty.

1 ~~SEC. 6.—Article 8.5 (commencing with Section 5323) is added~~
2 ~~to Chapter 7 of Division 2 of the Public Utilities Code, to read:~~

3
4 ~~Article 8.5.—Consumer Remedies~~

5
6 ~~5323.—Any person injured by reason of a violation of Section~~
7 ~~5142 may, as an alternative to making a complaint to the~~
8 ~~commission, sue therefor in any court having jurisdiction in the~~
9 ~~county where the defendant resides or is found, or any agent~~
10 ~~resides or is found, or where service may be obtained, without~~
11 ~~respect to the amount in controversy, and to recover three times the~~
12 ~~actual damages sustained by him or her or one thousand dollars~~
13 ~~(\$1,000), whichever is greater, interest on his or her actual~~
14 ~~damages, and preliminary or permanent injunctive relief when and~~
15 ~~under the same conditions and principles as injunctive relief is~~
16 ~~granted by courts generally under the laws of this state and the~~
17 ~~rules governing these proceedings, and shall be awarded a~~
18 ~~reasonable attorneys' fee together with the costs of the suit.~~

19 ~~SEC. 7.—~~

20 ~~SEC. 10. The provisions of this act are severable. If any~~
21 ~~provision of this act or its application is held invalid, that~~
22 ~~invalidity shall not affect other provisions or applications that can~~
23 ~~be given effect without the invalid provision or application.~~

24 ~~SEC. 11. No reimbursement is required by this act pursuant~~
25 ~~to Section 6 of Article XIII B of the California Constitution~~
26 ~~because the only costs that may be incurred by a local agency or~~
27 ~~school district will be incurred because this act creates a new crime~~
28 ~~or infraction, eliminates a crime or infraction, or changes the~~
29 ~~penalty for a crime or infraction, within the meaning of Section~~
30 ~~17556 of the Government Code, or changes the definition of a~~
31 ~~crime within the meaning of Section 6 of Article XIII B of the~~
32 ~~California Constitution.~~